

REMARKS

In the Office Action of October 6, 2004, the Examiner initially objected to claims 3 and 9 because, in the Examiner's opinion, it was not clear from the body of the claim language which party or entity received payment for the claim from the third party payor. By the present amendment, claims 3 and 9 have been cancelled and the subject matter of each claim has been incorporated into the respective independent claims 1 and 7. In amending claims 1 and 7, the applicant has taken care to clearly state that payment is received at the transaction facilitator and, once the payment has been received, funds are transferred from the transaction facilitator to the device manufacturer.

In the Office Action, the Examiner stated that during examination, the Examiner interpreted the claims as meaning that payment is transferred from the third party payor directly to the manufacturer of the device. Based on the present amendments, the claims have been clearly amended to indicate that the payment is received at the transaction facilitator and subsequently transferred to the manufacturer. By the present amendment, the applicant is believed to have addressed the objections raised by the Examiner.

In the Office Action, claims 1-6 were rejected under 35 USC §103(a) as being unpatentable over the Kessler U.S. Patent Application Publication No. 2001/0034618 and the De La Motte U.S. Patent Application Publication No. 2003/0014318. Likewise, claims 7-12 were rejected under 35 USC §103(a) as being unpatentable over the combination of the Kessler '618 reference and the De La Motte '318 reference. Claims 13-15 and 17-20 were also rejected under 35 USC §103(a) as being unpatentable over the Kessler '618 and De La Motte '318 patent publications. Finally, claim 16 was rejected under §103(a) as being unpatentable over the combination of the Kessler and De La Motte references, and in further view of the Wren U.S. Patent No. 6,055,514.

Reconsideration of the above identified claim rejections is hereby requested in view of the foregoing claim amendments, as well as in view of the following arguments for allowance.

PRIOR ART SUMMARY

In the Office Action, the Examiner primarily relied upon the combination of the Kessler '618 reference and the De La Motte '318 reference to reject claims 1-15 and 17-20. In making this rejection, the Examiner stated that the Kessler reference teaches a method of providing a device, but did not include a transaction facilitator. According to the Examiner, the De La Motte reference teaches a transaction facilitator such that the combination of the Kessler and De La Motte references teaches the subject matter of the present application. The applicant hereby objects to such finding by the Examiner for the reasons to be set forth below.

The Kessler '618 reference relied upon by the Examiner is directed to a healthcare payment and compliance system that allows a beneficiary, a service provider and a third party payor to communicate with an application service provider (ASP) through a network, such as the Internet. In general, the subject matter of the Kessler '618 patent teaches the conventional product procurement system currently in place in most healthcare facilities, for which the invention of the present application is designed to replace.

In the Kessler '618 reference, a request for a device is submitted to the application service provider (ASP) from either the patient or the service provider. A data base within the ASP determines whether the submitted request for a device or procedure is authorized by the beneficiary's insurance coverage (Section [0121]). If the beneficiary is covered by the health plan, the provider may then immediately provide the medical benefit product or service to the beneficiary and the provider will automatically bill the third party payor for the health care provided to the beneficiary. The rules for the insurance coverage are submitted to the ASP by the third party payor through the network.

The subject matter of the Kessler '618 patent is directed to an electronic communication system between the beneficiary, provider and the third party payor through a central network. By utilizing the central network, the provider can determine insurance coverage prior to performing a service or providing a medical device. The central network simply replaces the telephone call from the provider to the third party payor as previously required.

The De La Motte '318 reference cited by the Examiner is a system for facilitating transactions involving related goods and services. Specifically, the De La Motte '318 reference is directed to a system for developing an international trading network that allows buyers and suppliers to negotiate directly with each other for the sale of goods and services. As described in the De la Motte '318 reference, a transaction facilitator 102 includes multiple data bases 115 that include various products from a network of suppliers 106. The transaction facilitator 102 allows multiple buyers from a buyer network 104 to view the various products available from the supplier network across a global computer network. The transaction facilitator includes a common rating system that allows the buyers to accurately compare products offered by various suppliers.

As taught by the De La Motte '318 reference, the buyer typically submits a request for a quote (RFQ) that is bid on by one or more of the suppliers. If the buyer accepts the suppliers bid, a legally binding contract is created between the buyer and seller. Once the transaction has been completed, the buyer sends a purchase order directly to the supplier for the goods purchased. As can be understood in the De La Motte '318 reference, the transaction facilitator simply functions as a central location for a list of products and facilitates the communication between a supplier network and a buyer network. The transaction facilitator does not order products, control billing, receive payments or otherwise participate in the transaction between the buyer and seller.

PRESENT INVENTION

The present invention, as set forth in the amended claims, is directed to a method of providing a device, the cost of which is covered by a third party payor, such as an insurance company, to a healthcare facility and obtaining payment for the device from the third party payor. Initially, the request for the device is sent from the healthcare facility to the third party payor to determine whether the third party payor will authorize the cost of the device. If the cost of the device is authorized, the request for the device is relayed to a transaction facilitator. Upon receiving the request for the device, the transaction facilitator contacts a manufacturer for the device to order the device. By utilizing the transaction facilitator, the method of the present invention eliminates the requirement that the healthcare facility be involved in the procurement of the device. Specifically, the transaction facilitator eliminates the healthcare facility actually ordering the device from the manufacturer and eliminates the healthcare facility from the billing and payment cycle for the cost of the device. By utilizing a transaction facilitator to order and bill for the device, the method of the present invention reduces the required functions for the healthcare facility, thereby reducing the overall cost of the device and accelerates payment of the device to the manufacturer.

In accordance with the present invention, a cost claim for the device is generated by the transaction facilitator to the third party payor, where the payment for the device is received from the third party payor at the transaction facilitator. Once the transaction facilitator receives payment from the third party payor, funds are transferred from the transaction facilitator to the manufacturer.

CLAIMS 1-2, 4-6

In rejecting independent claim 1, the Examiner stated that the De La Motte '318 reference taught a transaction facilitator that contacted a manufacturing facility to order a device. This finding by the Examiner is not supported by the text of the De La Motte '318 reference.

In independent claim 1, as amended, the transaction facilitator contacts a manufacturer for the device to order the device, where the manufacturer delivers the device directly to the healthcare facility. In the De La Motte '318 reference, the buyer creates an RFQ that is transmitted to the transaction facilitator. If the RFQ is correct, the transaction facilitator presents the RFQ to multiple suppliers. Upon receiving the RFQ, the suppliers will present a bid, which must be accepted by the buyers. If the buyers and sellers agree to the terms, an acceptance is generated from the buyer to the supplier, which ultimately results in a purchase order being delivered from the buyer to the supplier. Only after a purchase order has been received from the buyer will be the products be shipped from the seller to the buyer.

Based upon a review of the De La Motte '318 reference, the transaction facilitator does not order a device from the manufacturing facility. Instead, the transaction facilitator simply provides a communication medium between the buyer and seller that may ultimately result in the purchase of the product directly by the buyer.

In amended independent claim 1, the transaction facilitator, upon receiving a request for the device from the third party payor, actually orders the device from the manufacturer. By utilizing a transaction facilitator to order devices authorized by a third party payors, it is anticipated that the transaction facilitator will be able to obtain a lower price for the device as compared to the prior art procurement system that allowed the healthcare facility to directly order the device.

Further, the Examiner stated that the De La Motte '318 reference taught the step in which the transaction facilitator generates a cost claim for the device. Specifically, the Examiner cited Section [0049] of the De La Motte '318 reference. Upon reviewing this section of the reference, as well as the remaining text of the De La Motte '318 reference, the De La Motte reference teaches the direct generation of a purchase order from the buyer to the supplier. In Section [0049], the De La Motte '318 reference teaches that the purchase order may be transmitted through the transaction facilitator to the supplier or may be transmitted directly by mail or fax. However, the De La Motte

'318 reference does not teach generating a cost claim from the transaction facilitator to the third party payor.

By the present amendment, claim 1 has also been amended to more clearly indicate that payment is received at the transaction facilitator for the claim from the third party payor and, once the payment is received, the funds are transferred from the transaction facilitator to the manufacturer. Clearly, these additional steps are not taught or suggested, nor rendered obvious by the combination of references cited by the Examiner in the Office Action.

Based upon the above arguments for allowance, independent claim 1 is believed to be in condition for allowance and such action is respectfully requested.

Claims 2 and 4-6 depend directly or indirectly from claim 1 and are believed to be allowable based upon the above arguments for allowance, as well as the subject matter of each claim.

CLAIMS 7-8, 10-12

Independent claim 7 was rejected by the Examiner generally along the same lines as the rejection discussed above with reference to independent claim 1. By the present amendment, claim 7 has been amended generally along the lines of independent claim 1. Thus, the above arguments for allowance with respect to independent claim 1 apply to the subject matter of independent claim 7. Specifically, independent claim 7 teaches a method in which the transaction facilitator electronically contacts the manufacturer for a medical device to order the medical device, where the manufacturer delivers the medical device to the healthcare facility. The transaction facilitator further generates a claim for the medical device to the insurance provider and receives payment for the claim from the insurance provider. Once the payment is received, funds are transferred from the transaction facilitator to the device manufacturer for payment of the medical device.

In the combination of references cited by the Examiner, and specifically the De La Motte '318 publication, there is no teaching or suggestion of utilizing a transaction

facilitator to directly contact a manufacturer for a medical device to order the medical device. Further, the combination of references do not teach generating a claim for the medical device directly from the transaction facilitator to the insurance provider and ultimately receiving payment for the claim at the transaction facilitator. In the De La Motte '318 reference relied upon by the Examiner, the transaction facilitator does not directly order any product or service, does not generate a cost claim and does not receive payment from the insurance provider. Thus, independent claim 7 is believed to be in condition for allowance.

Claims 8 and 10-12 depend directly or indirectly from claim 7 and are believed to be allowable based upon the above arguments for allowance as well as in view of the subject matter of each claim.

CLAIMS 13-20

Independent claim 13 of the present application was also rejected based upon the combination of the De La Motte and Kessler references. By the present amendment, claim 13 has been amended to clearly indicated that upon authorization from the third party payor, a request for the preferred device is relayed from the third party payor to a transaction facilitator. The transaction facilitator contacts a manufacturer for the device to order the device and generates a claim for the device from the transaction facilitator to the third party payor.

In rejecting claim 13, the Examiner stated that the De La Motte '318 reference taught a transaction facilitator that contacts a manufacturing facility to order the device and generates a cost claim for the device. As discussed above in the arguments for allowance of independent claims 1 and 7, the De La Motte '318 reference does not teach a transaction facilitator that contacts a manufacturing facility to order a device and does not teach a transaction facilitator that generates a cost claim for the device. Instead, the De La Motte '318 reference teaches a transaction facilitator that provides a clearinghouse for products and allows buyers and sellers to communicate with each other through the transaction facilitator. As clearly stated in the De La Motte '318 reference, the actual

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purchase of a product or service from a supplier is carried out directly between the buyer and the seller. Further, the payment for the product is received at the supplier directly from the buyer, rather than through the transaction facilitator. Thus, the subject matter of independent claim 13 is not taught or suggested, nor rendered obvious by the combination of references relied upon by the Examiner.

Claims 14-19 depend directly or indirectly from claim 13 and are believed to be allowable based upon the above arguments for allowance, as well as in view of the subject matter of each claim.

NEW CLAIMS 21-22

New claims 21 and 22 have been added to the application to round out the scope of protection to which the applicant is believed to be entitled.

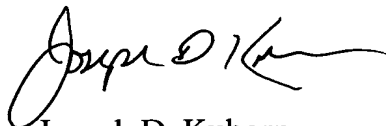
CONCLUSION

Based upon the claim amendments and the above arguments for allowance, claims 1-2, 4-8 and 10-22 are believed to be in condition for allowance and such action is respectfully requested.

The Examiner is invited to contact the applicant's undersigned attorney with any questions or comments, or to otherwise facilitate prosecution of the present application.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL, LLP

A handwritten signature in black ink, appearing to read 'Joseph D. Kuborn', with a stylized flourish at the end.

Joseph D. Kuborn
Reg. No. 40,689

100 East Wisconsin Avenue, Suite 1100
Milwaukee, Wisconsin 53202
Telephone No. (414) 271-7590
Attorney Docket No.: 4437-00002